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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.         | CONFIRMATION NO. |
|--|-------------|----------------------|-----------------------------|------------------|
| 10/005,315   | 12/07/2001  | Chikao Nagasaka      | 740165-320                  | 7922             |
| 22204  | 7590        | 09/08/2004           |                             |                  |
| NIXON PEABODY, LLP<br>401 9TH STREET, NW<br>SUITE 900<br>WASHINGTON, DC 20004-2128 |             |                      |                             |                  |
|  |             |                      | EXAMINER<br>BROWN, VERNAL U |                  |
|  |             |                      | ART UNIT<br>2635            | PAPER NUMBER     |

DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/005,315

Applicant(s)

NAGASAKA, CHIKAO

Examiner

Vernal U Brown

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 3-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-7 is/are rejected.
- 7) ☒ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This action is responsive to communication filed on June 21, 2004.

#### ***Response to Amendment***

The examiner has acknowledged the cancellation of claims 2 and the amendment of claims 3-6 and the addition of claims 7.

#### ***Response to Arguments***

Regarding applicant's argument concerning claim 1, Nojiri et al. teaches a device controller comprising a controlling section (3) for actuating a function that cause the device to change its operating state of changing the volume (col. 4 line 65-col. 5 line 2). By changing the volume the operating state of the device is further change from a present condition to a state (increase or lower volume) that is different from the present state.

Regarding the argued limitation of returning the device to a current, the examiner does not understand how the device can return to its current condition. The examiner understands the current condition to be the condition the device is presently in and therefore does not understand how the device can return to a condition it is already in.

The argued limitation of providing a notification to the driver prior to the activation of the vehicle component function (pages 7-8) is not in the claim.

#### ***Claim Objections***

Claims 1, 4, 5, 6, and 7 are objected to because of the following informalities:

Claims 1, 4, 5, 6, and 7 uses the phrase "can send". The term "can send" is not a positive recitation of the claimed limitation.

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Claim 6 is also objected because it is dependent on a cancelled claim. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 7, 3, and 4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 7, 3, and 4, the examiner does not understand how the device can return to its current condition. The examiner understands the current condition to be the condition the device is presently in and therefore does not understand how the device can return to a condition it is already in.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Nojiri et al.

U.S Patent 4503528.

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Regarding claim 1, Nojiri et al. teaches a device controller (figure 1), comprising: an operation section (2) which can send an operation signal to a device (col. 4 lines 1-6); and a controlling section (3) for actuating a function that the device has for achieving an original object to thereby change an operating state of the device to a state that is different from the present state of the device (col. 4 line 65-col. 5 line 2). Nojiri et al. further teaches notifying, at a point in time at which the device becomes able to receive the operation signal from the operation section by setting the flags corresponding to the device to be controlled (col. 6 lines 24-37). Nojiri et al. further teaches changing the operational (ON/OFF) state of the device from the different condition to the present condition (col. 4 lines 65-68).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nojiri et al. U.S Patent 4503528 in view of Onodera U.S Patent 6448670.

Regarding claims 4 and 7, Nojiri et al. teaches a device controller (figure 1), comprising: an operation section (2) which can send an operation signal to a device (col. 4 lines 1-6); and a controlling section (3) for actuating a function but is silent on teaching the operation section is displaceable within a predetermined range in a vehicle compartment. Onodera in an art related vehicle mounted device control unit teaches the operation section (col. 6 lines 21-24) includes an operation section main body (4) that is

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displaceable within a predetermined range in a vehicle compartment (figure 1) and detecting sections (31), with each detecting section being connected to the controlling section (34) and detecting the operation section main body at different positions within the predetermined range (col. 6 line 62-col. 7 line 4).

It would have been obvious to one of ordinary skill in the art for the operation section is displaceable within a predetermined range in a vehicle compartment and the detecting section being connected to the controlling section and detecting the operation section main body at different positions within the predetermined range in Nojiri et al. as evidenced by Onodera because Nojiri et al. suggests a device controller comprising an operation section which sends an operation signal to a device and Onodera teaches the operation section includes an operation section main body that is displaceable within a predetermined range in a vehicle compartment and detecting sections , with each detecting section being connected to the controlling section and detecting the operation section main body at different positions within the predetermined range.

***Allowable Subject Matter***

Claims 3 and 5 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Regarding claim 3, the prior art fail to teach or suggests that after the part is displaced in the predetermined amount, the controlling section drives the driving section to displace the driven part in a opposite direction.

*Conclusion*

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

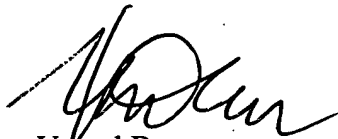
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vernal U Brown whose telephone number is 703-305-3864. The examiner can normally be reached on 8:30-6:30 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik can be reached on 703-305-4704. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Vernal Brown  
September 6, 2004

MICHAEL HORABIK  
SUPERVISORY PATENT EXAMINER  
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